

STAFF REPORT

of the

**Domestic Policy Subcommittee Majority Staff
Oversight and Government Reform Committee
House of Representatives**

Dennis J. Kucinich, Chairman

**“Die or Give Up Trying”: How Poor Contractor Performance,
Government Mismanagement and the Erosion of Quality Controls
Denied Thousands of Disabled Veterans Timely and Accurate
Retroactive Retired Pay Awards**

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EXECUTIVE SUMMARY

to

“Die or Give Up Trying”: How Poor Contractor Performance, Government Mismanagement and the Erosion of Quality Controls Denied Thousands of Disabled Veterans Timely and Accurate Retroactive Retired Pay Awards.

Retroactive pay awards to eligible retired veterans with disabilities were enacted by Congress in 2003 and 2004. But delays in delivering the new benefit were significant. The Defense Finance and Accounting Service (DFAS) determined that more than 133,000 potentially eligible veterans were waiting for adjudication of their claims three years after Congress enacted the laws. The backlog grew to over 217,000 veterans as the delays compounded.

DFAS awarded a no-bid, Cost Plus Fixed Fee contract to Lockheed Martin (“Lockheed”) for the VA Retro program, as the work to compute the retroactive pay awards was known. Lockheed originally had a deadline of November 2007 to work through the backlog of VA Retro cases. But Lockheed missed that deadline and every succeeding one. By March 1, 2008, over 60,000 eligible veterans still had not had their cases reviewed for payment.

For its part, Lockheed was unable to automate calculation of VA Retro claims, as both Lockheed and the Government had intended. The reasons were several: the individual circumstances of the disabled veterans were complicated and difficult to translate into reliable computer programming rules, and the databases necessary to automate did not exist at the project’s inception. The government bore responsibility, too. The Department of Veterans Affairs and the military services were slow to put the data in the necessary form for automation.

Lockheed moved to hire more staff to perform the calculations manually. Yet productivity remained low and top DFAS managers were concerned about the high number of errors their quality control auditors were detecting.

But the Government was powerless to hold the contractor accountable; the contract did not provide for penalties for poor contractor performance.

In an effort to rescue the program from further delay, DFAS suspended its own quality control procedures, effectively allowing Lockheed to verify the accuracy of its own calculations. This, in combination with assigning federal workers to augment Lockheed’s workforce, finally had the desired effect: By the end of June 2008, DFAS and Lockheed announced the VA Retro backlog had been eliminated, and Lockheed had received \$18.74 million for the VA Retro program.

To determine the causes of the delays in the VA Retro program, an investigation was launched by the Domestic Policy Subcommittee in May 2008. The Subcommittee Majority Staff reviewed a total of 16,000 pages of documents produced separately by

DFAS and Lockheed. Staff also interviewed disabled veterans whose VA Retro payments had been delayed or denied.

One of those veterans, whose eligibility was initially denied, struggled for one year to get DFAS to reevaluate his denial. Eventually, he prevailed, after producing documentation that would have also been available to Lockheed. He was finally awarded a \$15,000 retroactive payment. He told the Subcommittee, “Most guys who get a letter saying they get zero money would never challenge it. They wouldn’t know how. I’d be surprised if they understand what they get in the mail. And lots of guys will just trust their government. I get sad to the point of crying seeing the guys in worse shape than me. [But] DFAS wants us to die or just give up trying [to get our benefits].”

KEY FINDINGS

DELAYS IN THE IMPLEMENTATION AND EXECUTION OF THE VA RETRO PROGRAM WERE SIGNIFICANT. GOVERNMENT MISMANAGEMENT AND POOR PERFORMANCE BY LOCKHEED RESULTED IN A DELAY OF FIVE AND ONE-HALF YEARS TO REVIEW THE CLAIMS OF ELIGIBLE DISABLED VETERANS AFTER CONGRESS CREATED NEW BENEFITS FOR RETIRED VETERANS WITH COMBAT-RELATED AND SERVICE-RELATED DISABILITIES.

UP TO 8,763 DISABLED VETERANS DIED BEFORE THEIR CASES WERE REVIEWED FOR VA RETRO ELIGIBILITY.

DFAS FOUND LOCKHEED’S PERFORMANCE DEFICIENT BUT WAS UNABLE TO ASSESS PENALTIES BY THE CONTRACT’S TERMS.

DFAS CUT BACK QUALITY CONTROL AND USED FEDERAL WORKERS TO SUPPLEMENT LOCKHEED’S WORKFORCE TO DECREASE PAYMENT BACKLOG.

DFAS BYPASSED GAO REGULATIONS ON STATISTICAL SAMPLING IN FEDERAL QUALITY-CONTROL PROCEDURES.

LOCKHEED APPLIED A WEAKER STANDARD TO QUALITY ASSURANCE THAN STANDARD MANDATED BY GAO.

UP TO 60,051 PAYMENTS TO VETERANS WERE ISSUED AFTER A SUSPENSION OF QUALITY CONTROL MEASURES WENT INTO EFFECT ON MARCH 1, 2008.

AT LEAST 28,283 VETERANS WERE DENIED RETROACTIVE PAY BASED ON DETERMINATIONS MADE WHOLLY WITHOUT QUALITY ASSURANCE REVIEW.